

SAN MARINO 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of San Marino is a multiparty democracy. Twice yearly, the popularly elected unicameral Great and General Council (parliament) selects two of its members to serve as Captains Regent (co-heads of state). They preside over meetings of the Council and of the Congress of State (cabinet), which has no more than 10 other members (secretaries of state), selected by the Council. Observers considered the parliamentary elections on December 8 to be generally free and fair.

The Civil Police operates under the authority of the Ministry of Internal Affairs. The Captains Regent oversee the Gendarmerie (national police force) and National Guard (military) when they are performing duties related to public order and security. The Ministry of Foreign Affairs exercises control over such administrative functions as personnel and equipment, and the courts exercise control over the Gendarmerie when it acts as judicial police. The Military Congress enforces the military code of conduct. Civilian authorities maintained effective control over the security forces.

There were no reports of significant human rights abuses.

The government was prepared to take steps to identify, investigate, and prosecute officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions.

Administration: No allegations of mistreatment were reported to the authorities.

Independent Monitoring: The government permitted visits by independent nongovernmental observers and international bodies.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

Warrants based on sufficient evidence and issued by a duly authorized official are required for authorities to apprehend persons other than those who are caught and arrested during the alleged commission of a crime. Authorities did not detain individuals without judicial authorization or in secret. Police promptly informed detainees of charges against them. There was a well functioning bail system. Authorities provided detainees prompt access to a lawyer of their choice and to family members. The state provided legal assistance to indigent persons, and there were no reports of limitations to this provision. The law provides for an apprehended person to be detained in prison, in a treatment facility, or under house arrest. The person may be ordered also to remain in the country while their case is pending trial. There were no reports that authorities detained or held persons incommunicado.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. In October the European Court of Human Rights (ECHR) ruled that San Marino did not guarantee a fair trial to a defendant because he was denied the possibility to cross-examine two witnesses, both codefendants, who had given incriminating statements against him.

Trial Procedures

The law provides for the right to a fair and public trial, without undue delay, and an independent judiciary generally enforced this right. The law provides for the presumption of innocence and requires authorities to inform defendants promptly and in detail of the charges against them. Defendants have the right to be present and to consult with an attorney during every stage of the investigation. Indigent defendants have the right to an attorney provided at public expense. A single judge presides over trials. Defendants have the right to adequate time to prepare a defense. Free language interpretation is provided throughout the legal process. Defendants may question witnesses against them, and present witnesses and evidence on their behalf.

Authorities may not compel defendants to testify or to confess guilt. Defendants have the right to two levels of appeal. The law extends these rights to all persons.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals may seek civil remedies for human rights violations through domestic courts. Administrative as well as judicial remedies exist for alleged wrongdoings, including human rights violations. After they have exhausted all routes for appeal in the domestic courts, citizens may appeal cases involving alleged government violations of the European Convention on Human Rights to the ECHR.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Freedom of Expression: The country's laws prohibit persons from disseminating, by any means, ideas based on racial superiority or on racial or ethnic hatred, or from committing or encouraging others to commit discriminatory acts on the grounds of race, ethnicity, nationality, religion, or sexual orientation. There were no reports of violations of or prosecutions based on these laws.

Press and Media, Including Online Media: The law regulating media and the work of media professionals provides for an authority for information, which may impose sanctions (including fines) on journalists and media who violate a national media code of conduct. Online publications, such as blogs or messages on social media operated or written by individuals, associations, or parties were not considered as being part of the press and are therefore not covered by this legislation.

Unlike the previous year, journalists were represented within the Office of the Press Ombudsman, which was in charge of ensuring compliance with the code of ethics by media professionals.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Although the country is not a signatory to the UN Convention on Refugees, the government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

e. Internally Displaced Persons

Not applicable.

f. Protection of Refugees

Access to Asylum: The government may grant refugee status or asylum by an act of the cabinet.

g. Stateless Persons

Not applicable.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: Observers considered the December 8 parliamentary elections to be generally free and fair.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and they did participate.

Until April 2020, one of the two captains regent is a woman. The outgoing government's cabinet includes one woman.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. In August parliament approved a law providing for the criminalization of private sector corruption. There were no reports of government corruption during the year.

Financial Disclosure: There is no specific financial disclosure requirement for public officials. The law requires candidates running for elective office to disclose their income from the previous year as well as any assets or investments in companies.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted persons accused of such crimes. The penalty for rape is two to six years in prison. In aggravated circumstances, the sentence is four to 10 years. No cases of rape or domestic violence were reported in the first 10 months of the year.

The law prohibits domestic violence, and the government effectively enforced it. Domestic violence is a criminal offense; the penalty for spousal abuse is two to six years in prison. In aggravated circumstances, the prison term is four to eight years.

Sexual Harassment: The government effectively enforced the law prohibiting sexual harassment.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides for the same legal status and rights for women as for men. The law regarding domestic violence and domestic abuse also prohibits gender-based discrimination.

Children

Birth Registration: Citizenship derives from one's parent (either mother or father, including adoptive parents) or, if both parents are unknown or stateless, by birth in the country's territory. Births must be registered within 10 days.

Early and Forced Marriage: The legal minimum age of marriage is 18, but a judge can authorize the marriage of minors at the age of 16 in special cases.

Sexual Exploitation of Children: The law prohibits child pornography, including performances, works, and material, and provides for punishment of anyone trading in, providing, or in any way distributing child pornography. The law includes punishment for providing information aimed at enticing or sexually exploiting children younger than 18, the minimum age of consent for sex. The penalty for this type of crime is imprisonment for two to six years, increased to four to 10 years if it involves sexual intercourse or if it has been committed to the detriment of a child younger than 14 or a child younger than 18 who has physical or mental disabilities.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish population is small. There were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced these prohibitions effectively, but not all public buildings were accessible to persons with physical disabilities. A local nongovernmental organization stated that some provisions of the law on the rights of the disabled still need to be fully implemented, including those related to their inclusion in employment and sport activities. There were no reported cases of discrimination against a person with disabilities.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law forbids discrimination based on sex or sexual orientation, personal, economic, social, political, or religious status. The specific prohibition of discrimination based on sexual orientation was added via an amendment to the country's constitution in June. This follows the legalization of civil unions, including for same-sex couples, approved by parliament in December 2018.

The law provides that, when a person commits an offense motivated by hostility toward the victim's sexual orientation, courts should consider such motivation as an aggravating circumstance when imposing sentence. The law prohibits persons from committing or encouraging others to commit discriminatory acts on the grounds of sexual orientation.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for workers to form and join independent unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination.

Some limitations defined by the law apply to strikes by workers employed in ‘essential public services,’ including healthcare, education, and transportation. The government enforced applicable laws without lengthy delays. The laws are subject to appeals, and penalties were sufficient to deter violations. Penalties include fees and in case of recidivism the prohibition of professional activity.

The government and employers generally respected freedom of association and the right to collective bargaining. Worker organizations were independent of the government and political parties. During the first 11 months of the year, there were no reports that the government interfered in union activities, sought to dissolve unions, or used excessive force to end strikes or protests, nor any reports of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. Resources, remediation efforts, and investigations appeared adequate and effective, although information on penalties for violations was not available.

According to the Office of the Labor Inspector, there were no reports of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The minimum age for employment is 16 and the law excludes minors between the ages of 16 and 18 from the heaviest type of work. Minors are not allowed to work overtime and cannot work more than eight hours per day. The government effectively enforced child labor laws and devoted adequate resources and oversight to child labor policies. During the first 11 months of the year, the Office of the Labor Inspector did not report any cases of child labor.

The government effectively enforced laws and policies to protect children from exploitation in the workplace. Penalties were sufficient to deter violations.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation on the basis of race, color, sex, religion, political opinion, national origin or

citizenship, social origin, disability, sexual orientation or gender identity, age, language, or HIV-positive status or other communicable diseases. The government effectively enforced these laws and regulations and penalties were sufficient to deter violations. There were no official cases of discrimination in employment or occupation brought during the first 11 months of the year.

e. Acceptable Conditions of Work

There is no national minimum wage. Industry-based minimum wages existed for various industrial sectors. In April parliament approved a law that introduced specific criteria for the allocation of social funds, taking into consideration the applicants' conditions, including income, wealth, and health status. On average, less than 2 percent of the adult population applied for this contribution annually. Low-income individuals could also apply for welfare payments.

The law prohibits excessive or compulsory overtime. The government set appropriate safety and health standards for the main industries. The penalties for failing to comply with the safety and health regulations provided by law range from a fine to imprisonment and were generally sufficient to deter violations.

The government's Labor Office generally enforced labor standards effectively. There were a few exceptions, especially in the construction industry, where some employers did not consistently abide by safety regulations, such as work-hour limitations and use of personal safety devices. Authorities did not enforce health and safety standards in the informal sector. Penalties were sufficient to deter violations. There were no reports of serious injuries to workers in the first nine months of the year. The Office of the Labor Inspector has responsibility for receiving and investigating claims of workplace health and safety violations. The Agency for Environment and the Agency for Civil Protection are mandated to supervise the implementation of legislation on safety and health in the workplace as well as to investigate major accidents.